

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE**

MAURICE JOHNSON, and	:	
KELLY LYNETTE LUCAS, his wife,	:	
	:	C.A. No.
Plaintiffs,	:	
	:	
v.	:	
	:	
CITY OF NEWARK, and,	:	
NEWARK POLICE DEPARTMENT,	:	JURY TRIAL DEMANDED
	:	
Defendants.	:	

**IN THE SUPERIOR COURT OF THE STATE OF DELAWARE  
IN AND FOR NEW CASTLE COUNTY**

MAURICE JOHNSON, and	:	
KELLY LYNETTE LUCAS, his wife,	:	
	:	C.A. No. 07-C-01-437-JRJ
Plaintiffs,	:	
	:	
v.	:	
	:	
CITY OF NEWARK, and,	:	
NEWARK POLICE DEPARTMENT,	:	JURY TRIAL DEMANDED
	:	
Defendants.	:	

**NOTICE OF REMOVAL**

**TO THE HONORABLE JUDGES OF THE UNITED STATES DISTRICT  
COURT FOR THE DISTRICT COURT OF THE STATE OF DELAWARE:**

Defendants, City of Newark and Newark Police Department, by and through their attorneys, Marshall, Dennehey, Warner, Coleman and Goggin, hereby remove the above-captioned case to this Honorable Court and provide notice of same to Plaintiffs. In support of the removal, the Defendants aver as follows:

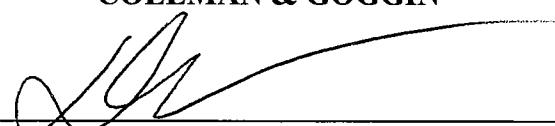
1. That on or about February 16, 2007, the Plaintiffs' Complaint in the above-captioned matter was served upon the Defendants. A copy of the Complaint herein is attached hereto and marked Exhibit "A".

2. In the Answers to Superior Court Form 30 Interrogatories filed along with Plaintiffs' Complaint, Plaintiffs aver that they reside at 1730 Severn Tree Court, Severn, Maryland 21144. (See Exhibit "A"). Defendants, City of Newark and Newark Police Department, are public entities organized and existing under the laws of the State of Delaware and located in Newark, Delaware.

3. The damages allegedly sustained by the Plaintiffs are in excess of \$75,000.  
4. The above-described civil action is one in which this Honorable Court has original jurisdiction pursuant to Title 28 United States Code §1332 based upon the fact that there exists diversity of citizenship between the parties and the amount in controversy is in excess of \$75,000.00 and is accordingly one which may be removed to this Honorable Court by Notice pursuant to Title 28 United States Code §1441.

**WHEREFORE**, the Defendants pray that the above action now pending in the Superior Court of Delaware in New Castle County be removed to this Court.

**MARSHALL, DENNEHEY, WARNER,  
COLEMAN & GOGGIN**



**DANIEL A. GRIFFITH, ESQUIRE**  
DE ID No. 4209  
1220 N. Market Street, 5<sup>th</sup> Floor  
P.O. Box 8888  
Wilmington, DE 19899-8888

DATE:

**CERTIFICATE OF SERVICE**

I, Daniel A. Griffith, Esquire hereby certify that on the date indicated below two (2) true and correct copies of Notice of Removal were forwarded to the below named addressees by first-class mail:

Morton Richard Kimmel, Esquire  
**Kimmel, Carter, Roman & Peltz**  
P.O. Box 1070  
Bear, Delaware 19701  
Attorney for Plaintiffs

**MARSHALL, DENNEHEY, WARNER,  
COLEMAN & GOGGIN**

BY:

  
DANIEL A. GRIFFITH, ESQUIRE  
DE ID No. 4209  
1220 N. Market Street, 5<sup>th</sup> Floor  
P.O. Box 8888  
Wilmington, DE 19899-8888

Dated: 2/21/07

\15\_A\LIAB\DA GRIFFITH\LLPG\409493\HXRUSSO\20008\00116

EFILED: Jan 31 2007 11:54AM EST

Transaction ID 13648536

Case No. 07C-01-437 JRJ

**SUPERIOR COURT CIVIL CASE INFORMATION STATEMENT (CIS)****COUNTY:** (N) K S**CIVIL ACTION NUMBER:****CIVIL CASE CODE:** CPIN**CIVIL CASE TYPE:** Personal Injury

Caption:

**Name & Status of Party Filing Document:**MAURICE JOHNSON, and  
KELLY LYNETTE LUCAS, his wife,

MAURICE JOHNSON, Plaintiff

Plaintiffs,

**Document Type:** COMPLAINT, ANSWER  
TO FORM 30 INTERROGATORIES,  
PRAECIPE, SUMMONS.

v.

**Non-Arbitration:**  **eFile:** CITY OF NEWARK, and,  
NEWARK POLICE DEPARTMENT,(CERTIFICATION OF VALUE MAY BE  
REQUIRED)

Defendants.

**Arbitration:**  **Mediation**  **Neutral**  
**Assessment****DEFENDANT (CIRCLE ONE)** **ACCEPT**  
**REJECT****Attorney Name(s):**  
Morton Richard Kimmel, Esquire  
Bar ID: 132  
Lawrance Spiller Kimmel, Esquire  
Bar ID: 4725**Jury Demand:**  Yes  No**Firm Name(s):** Kimmel, Carter,  
Roman & Peltz, P.A.**Track Assignment Requested:****EXPEDITED (STANDARD) COMPLEX****Office Address:**  
200 Biddle Avenue, Suite 101  
Springside Plaza  
Newark, Delaware 19702**Identify Any Related Cases Now Pending in  
the Superior Court by Caption and Civil  
Action Number Including Judge Initials:****Telephone Number:** (302) 392-2000

None.

**Fax Number:** (302) 392-0800**Explain the Relationship(s):****E-Mail Address:**  
[lkimmel@kcrlaw.com](mailto:lkimmel@kcrlaw.com)

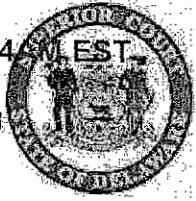
Not applicable

**Other Unusual Issues that Affect Case  
Management:**

Not applicable.

**THE PROTHONOTARY WILL NOT PROCESS THE COMPLAINT, ANSWER, OR FIRST  
RESPONSIVE PLEADING IN THIS MATTER FOR SERVICE UNTIL THE CASE  
INFORMATION STATEMENT (CIS) IS FILED. THE FAILURE TO FILE THE CIS AND TO  
HAVE THE PLEADING PROCESSED FOR SERVICE MAY RESULT IN THE DISMISSAL OF  
THE COMPLAINT OR MAY RESULT IN THE ANSWER OR FIRST RESPONSIVE  
PLEADING BEING STRICKEN.**

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IN THE SUPERIOR COURT OF THE STATE OF DELAWARE

IN AND FOR NEW CASTLE COUNTY

MAURICE JOHNSON, and :  
KELLY LYNETTE LUCAS, his wife, :  
Plaintiffs, : C. A. No. 07C-01-437 JKJ  
v. : NON-ARBITRATION CASE  
CITY OF NEWARK, and, :  
NEWARK POLICE DEPARTMENT, : JURY TRIAL DEMANDED  
Defendants. :

P R A E C I P E

PLEASE ISSUE SUMMONS, COMPLAINT, AFFIDAVIT OF COUNSEL, ANSWERS TO  
SUPERIOR COURT FORM 30 INTERROGATORIES, and CERTIFICATE OF VALUE on the Defendant  
City of Newark, through the City Manager of the City of Newark, Carl Luft, at 220 Elkton Road, Newark,  
Delaware 19711; and Defendant Newark Police Department, through the City Manager of the City of Newark,  
Carl Luft, at 220 Elkton Road, Newark, Delaware 19711.

/S/ MORTON RICHARD KIMMEL  
MORTON RICHARD KIMMEL, ESQUIRE  
Kimmel, Carter, Roman & Peltz, P.A.  
Bar ID: 132

/S/ LAWRENCE SPILLER KIMMEL  
LAWRENCE SPILLER KIMMEL, ESQUIRE  
Kimmel, Carter, Roman & Peltz, P.A.  
200 Biddle Avenue, Suite 101  
Springside Plaza  
Bear, Delaware 19701  
(302) 392-5277  
Attorneys for Plaintiffs  
Bar ID: 4725

DATE: January 31, 2007

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IN THE SUPERIOR COURT OF THE STATE OF DELAWARE

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MAURICE JOHNSON, and	:	
KELEY LYNETTE LUCAS, his wife,	:	
Plaintiffs,	:	C. A. No. 07C-01-437 JRJ
v.	:	NON-ARBITRATION CASE
CITY OF NEWARK, and	:	
NEWARK POLICE DEPARTMENT,	:	
Defendants.	:	JURY TRIAL DEMANDED

**THE STATE OF DELAWARE,**

**TO THE SHERIFF OF NEW CASTLE COUNTY:**

**YOU ARE COMMANDED:**

To summon the above named defendants so that, within 20 days after service hereof upon defendant, exclusive of the day of service, defendants shall serve upon Lawrence Spiller Kimmel, Esquire, plaintiff's attorney, whose address is 200 Biddle Avenue, Suite 101, Springside Plaza, Newark, DE 19702, an answer to the complaint (and, if an affidavit of demand has been filed, an affidavit of defense).

To serve upon defendants a copy hereof and of the complaint (and of the affidavit of demand if any has been filed by plaintiffs).

Dated: 1/31/07

SHARON AGNEW

Prothonotary

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Per Deputy

**TO THE ABOVE NAMED DEFENDANT:**

In case of your failure, within 20 days after service hereof upon you, exclusive of the day of service, to serve on plaintiff's attorney named above an answer to the complaint (and, if an affidavit of demand has been filed, an affidavit of defense), judgment by default will be rendered against you for the relief demanded in the complaint (or in the affidavit of demand, if any).

SHARON AGNEW

Prothonotary

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Per Deputy

EFILED: Jan 31 2007 11:54AM EST  
 Transaction ID 13648536  
 Case No. 07C-01-437 JRJ



## IN THE SUPERIOR COURT OF THE STATE OF DELAWARE

## IN AND FOR NEW CASTLE COUNTY

MAURICE JOHNSON, and	:	
KELLY LYNETTE LUCAS, his wife,	:	
Plaintiffs,	:	C. A. No. 07C -01-437 JRJ
v.	:	NON-ARBITRATION CASE
CITY OF NEWARK, and,	:	
NEWARK POLICE DEPARTMENT,	:	
Defendants.	:	JURY TRIAL DEMANDED

COMPLAINT

1. On Tuesday, January 24, 2006, the male Plaintiff was operating a motor vehicle in Anne Arundel County, Maryland, when he was stopped for an alleged traffic violation by an officer of the Anne Arundel County Police Department. During that stop, the police officer arrested the male Plaintiff on an outstanding warrant issued by the Defendants on charges of stealing a motor vehicle in Newark, Delaware, and unauthorized use of a credit card in Newark, Delaware.
2. The male Plaintiff was not the individual listed in the Defendants' warrant.
3. The male Plaintiff was detained at Anne Arundel County Detention Center and spent the evening of Tuesday, January 24, 2006, in prison at the Anne Arundel County Detention Center because of the gross negligence, reckless and/or wanton conduct of Defendants.
4. The male Plaintiff was transferred to Prince George's County Correctional Center on Wednesday, January 25, 2006, and held in prison from Wednesday, January 25, 2006 through Thursday, February 2, 2006, because of the gross negligence, reckless and/or wanton conduct of Defendants.

5. The male Plaintiff was extradited and taken in both ankle and wrist shackles to the Newark Police Department on Thursday, February 2, 2006, where the Defendants immediately determined that the male Plaintiff was not the individual, also named Maurice Johnson, that was "wanted" by the Defendants.

6. The conduct of the Defendants was grossly negligent, reckless and/or wanton in that their agents, acting within the scope and course of their employment or with apparent authority:

- a. Caused the male Plaintiff to be falsely arrested by misidentifying the male Plaintiff;
- b. Caused the male Plaintiff to be falsely imprisoned by misidentifying the male Plaintiff and failed to take action to investigate the male Plaintiff's claim that he never stole a motor vehicle in Newark, Delaware, and never used a credit card in Newark, Delaware without proper authorization;
- c. Failed to withdraw an outstanding warrant for the Maurice Johnson that was charged with stealing a motor vehicle in Newark, Delaware, and unauthorized use of a credit card in Newark, Delaware, once this Maurice Johnson was arrested in New York in 2003;
- d. Failed to take appropriate measures to determine if the male Plaintiff was falsely identified, falsely arrested, and falsely imprisoned, despite repeated communications from Anne Arundel County Detention Center, Prince George's County Correctional Center, and Maurice Johnson's wife, the female Plaintiff, informing them of their mistake;
- e. Failed to have the male Plaintiff released by the Maryland authorities, even after being supplied with the male Plaintiff's date of birth, social security number, weight,

height, photograph, and fingerprints, which clearly proved that the male Plaintiff was the "wrong man."

7. As a direct result of the aforesaid conduct of the Defendants, the male Plaintiff has undergone severe emotional pain and suffering, which continue and will continue in the future, was terminated from his employment, has sustained a loss of earnings and a loss of future earnings, medical expenses, a loss of reputation, and other damages.

8. As a further direct result of the aforesaid conduct of the Defendants, the female Plaintiff has sustained a loss of consortium.

**WHEREFORE**, Plaintiffs demand judgment against Defendants for their general and special damages, and punitive damages, in an amount to be determined by a jury, plus costs and interest.

/S/ MORTON RICHARD KIMMEL  
**MORTON RICHARD KIMMEL, ESQUIRE**  
Kimmel, Carter, Roman & Peltz, P.A.  
Bar ID: 132

/S/ LAWRENCE SPILLER KIMMEL  
**LAWRENCE SPILLER KIMMEL, ESQUIRE**  
Kimmel, Carter, Roman & Peltz, P.A.  
200 Biddle Avenue, Suite 101  
Springside Plaza  
Bear, Delaware 19701  
(302) 392-2000  
Attorneys for Plaintiffs  
Bar ID: 4725

DATE: January 31, 2007

**CERTIFICATE OF VALUE**

I, LAWRENCE SPILLER KIMMEL, attorney for the Plaintiffs, hereby certify in good faith that at this time, in my opinion, the sum of damages of the Plaintiffs' claim is in excess of \$100,000, exclusive of costs and interest.

**/S/ LAWRENCE SPILLER KIMMEL**  
LAWRENCE SPILLER KIMMEL

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Plaintiffs,	:	C. A. No. 07C-01-437 JRJ
v.	:	NON-ARBITRATION CASE
CITY OF NEWARK, and,	:	
NEWARK POLICE DEPARTMENT,	:	
Defendants.	:	JURY TRIAL DEMANDED

**ANSWERS TO SUPERIOR COURT  
FORM 30 INTERROGATORIES**

1. Give the names and present or last known residential and employment address and telephone number of each eye-witness to the incident which is the subject of litigation.

**ANSWER:**

Maurice Johnson, 1730 Severn Tree Court, Severn, Maryland 21144, (240) 304-7731

Personnel at Anne Arundel County Police Department, Anne Arundel, Maryland

Personnel at Newark Police Department, Newark, Delaware

Personnel at Prince George's County Police Department, Prince George's County, Maryland

2. Give the names and present or last known residential and employment address and telephone number of each person who has knowledge of the facts relating to the litigation.

**ANSWER:**

See those listed in interrogatory #1 above, Plaintiff's relatives, friends, and business associates;

Kelly Lynette Lucas, 1730 Severn Tree Court, Severn, Maryland 21144, (410) 551-5496

Ted Riser, Newark Police Department, 220 Elkton Road, Newark, Delaware 19715,

(302) 366-7111

Ron Mullin, Newark Police Department, 220 Elkton Road, Newark, Delaware 19715,

(302) 366-7111

Officer D'Elia, Newark Police Department, 220 Elkton Road, Newark, Delaware 19715,

(302) 366-7111

Judge Gene Baron, Columbia District Court Judge, Prince George's County, Township of Upper

Marlboro, Maryland

Robert Lee, Delaware Attorney General's Office.

Dr. Samuel Romirowsky, Omega Professional Center, F-52 Omega Drive, Newark, DE 19713,

(302) 737-7090

3. Give the names of all persons who have been interviewed in connection with the above litigation, including the names and present or last known residential and employment addresses and telephone numbers of the person who made said interviews and the names and present or last known residential and employment addresses and telephone numbers of persons who have the original and copies of the interview.

**ANSWER:**

None known.

4. Identify all photographs, diagrams or other representations made in connection with the matter in litigation giving the name and present or last known residential and employment address and telephone number of the person having the original and copies thereof. (In lieu thereof, a copy can be attached.)

**ANSWER:**

None known.

5. Give the name, professional address and telephone number of all expert witnesses presently retained by the party together with the dates of any written opinions prepared by said expert. If an expert is not presently retained, describe by type the experts whom the party expects to retain in connection with the litigation.

**ANSWER:**

Dr. Samuel Romirowsky, Omega Professional Center, F-52 Omega Drive, Newark, DE 19713,  
(302) 737-7090

6. Give a brief description of any insurance policy, including excess coverage, that is or may be applicable to the litigation, including:
- a. the name and address of all companies insuring the risk;
  - b. the policy number;
  - c. the type of insurance;
  - d. the amount of primary, secondary, and excess coverage.

**ANSWER:**

St. Paul Travelers Insurance Company, claim number TE11973

7. Give the name, professional address, and telephone number of all physicians, chiropractors, psychologists, and physical therapists who have examined or treated you at any time during the ten year period immediately prior to the date of the incident at issue in this litigation.

**ANSWER:**

To be provided.

/S/ MORTON RICHARD KIMMEL  
**MORTON RICHARD KIMMEL, ESQUIRE**  
Kimmel, Carter, Roman & Peltz, P.A.  
Bar ID: 132

/S/ LAWRENCE SPILLER KIMMEL  
**LAWRENCE SPILLER KIMMEL, ESQUIRE**  
Kimmel, Carter, Roman & Peltz, P.A.  
200 Biddle Avenue, Suite 101  
Springside Plaza  
Bear, Delaware 19701  
(302) 392-5277  
Attorneys for Plaintiffs  
Bar ID: 4725

DATE: January 31, 2007

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Case No. 07C-01-437 JRJ



**AFFIDAVIT OF COUNSEL PURSUANT  
TO RULE 3(a)(1)(ii) AND (iii)**

STATE OF DELAWARE :  
: SS  
NEW CASTLE COUNTY :

LAWRANCE SPILLER KIMMEL, being duly sworn this 31<sup>st</sup> day of January, 2007, does depose and say:

1. He is attorney for Plaintiffs in the above-referenced action.
2. This action involves a claim for personal injuries where Plaintiff's claims for special damages have been and will be supplied.



LAWRANCE SPILLER KIMMEL

SWORN TO AND SUBSCRIBED before me the day and year aforesaid,

  
NOTARY PUBLIC

The JS-44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet.  
(SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

**I(a) PLAINTIFFS**

Maurice Johnson and Kelly Lynette Lucas

**(b) COUNTY OF RESIDENCE OF FIRST LISTED PLAINTIFF** Arundel, Maryland  
(EXCEPT IN U.S. PLAINTIFF CASES)

**(c) ATTORNEYS (FIRM NAME, ADDRESS, AND TELEPHONE NUMBER)**

Morton Richard Kimmel, Esquire  
Kimmel, Carter, Roman & Peltz  
200 Biddle Avenue, Suite 101, Springside Plaza, Bear, Delaware 19701  
302-392-5277

**DEFENDANTS**

City of Newark and Newark Police Department

COUNTY OF RESIDENCE OF FIRST LISTED DEFENDANT New Castle  
(EXCEPT IN U.S. PLAINTIFF CASES)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED  
ATTORNEYS (IF KNOWN)  
Daniel A. Griffith, Esq. 302-552-4317  
Marshall, Dennehey, Warner, Coleman & Goggin  
1220 N. Market Street, 4th Floor  
Wilmington, DE 19899-8888

**II. BASIS OF JURISDICTION** (PLACE AN X IN ONE BOX ONLY)

1. U.S. Government Plaintiff  
 2. U.S. Government Defendant

3. Federal Question  
(U.S. Government Not a Party)  
 4. Diversity  
(Indicates Citizenship of Parties in Item III)

**III. CITIZENSHIP OF PRINCIPAL PARTIES**  
(FOR DIVERSITY CASES ONLY)

	PTF	DEF	(PLACE AN X IN ONE BOX FOR PLAINTIFF AND ONE BOX FOR DEFENDANT)	
			<input type="checkbox"/>	<input checked="" type="checkbox"/>
Citizen of This State	<input type="checkbox"/>	<input checked="" type="checkbox"/>	Incorporated or Principal Place of Business in This State	<input type="checkbox"/>
Citizen of Another State	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Incorporated and Principal Place of Business in Another State	<input type="checkbox"/>
Citizen of Subject of a Foreign Country	<input type="checkbox"/>	<input type="checkbox"/>	Foreign Nation	<input type="checkbox"/>

**IV. CAUSE OF ACTION** (CITE THE U.S. CIVIL STATUTE UNDER WHICH YOU ARE FILING AND WRITE A BRIEF STATEMENT OF CAUSE. DO NOT CITE JURISDICTIONAL STATUTES UNLESS DIVERSITY.)

Title 28 United States Code Section 1332 based upon a diversity of citizenship between the parties.

Title 28 United States Code Section 1441 based upon the amount in controversy is in excess of \$75,000.

**V. NATURE OF SUIT** (PLACE AN X IN ONE BOX ONLY)

CONTRACT	TORTS	FORFEITURE / PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgement <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recover of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits. <input type="checkbox"/> 160 Stockholder's Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability	<b>PERSONAL INJURY</b> <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input checked="" type="checkbox"/> 360 Other Personal Injury  <b>PERSONAL PROPERTY</b> <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<b>PERSONAL INJURY</b> <input type="checkbox"/> 362 Personal Injury – Med Malpractice <input type="checkbox"/> 365 Personal Injury – Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability  <b>PERSONAL PROPERTY</b> <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R & Truck <input type="checkbox"/> 650 Airline Regs <input type="checkbox"/> 660 Occupational Safety / Health <input type="checkbox"/> 690 Other	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157
REAL PROPERTY	CIVIL RIGHTS	PRISONER PETITIONS	<b>LABOR</b>	<b>PROPERTY RIGHTS</b>
<input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent, Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	<input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing / Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 440 Other Civil Rights	<input type="checkbox"/> 510 Motions to Vacate Sentence Habeas Corpus: <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Other	<input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act	<input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark
			SOCIAL SECURITY	<input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWV (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (402(g))
			FEDERAL TAX SUITS	<input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS – Third Party 26 USC 7609

**VI. ORIGIN** (PLACE AN X IN ONE BOX ONLY) **SUPERIOR COURT, STATE OF DELAWARE, KENT COUNTY CA No: 03C-02-013 (HdR)**

- 1 Original Proceeding     2 Removed from State Court     3 Remanded from Appellate Court     4 Reinstated or Reopened     5 Transferred from Another District (specify)     6 Multidistrict Litigation     7 Appeal to District Judge from Magistrate Judgment

**VII. REQUESTED IN COMPLAINT:**CHECK IF THIS IS A UNDER  
F.R.C.P. 23CLASS ACTION DEMAND \$ Check YES only if demanded in complaint:  
**JURY DEMAND:**  YES     NO**VIII. RELATED CASE(S)** (See instructions)  
IF ANY N/A

JUDGE

DOCKET NUMBER

DATE 2/19/07

SIGNATURE OF ATTORNEY OF RECORD  
Daniel A. Griffith, Esquire

UNITED STATES DISTRICT COURT

## INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET JS-44

## Authority For Civil Cover Sheet

The JS-44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleadings or other papers as required by law, except as provided by local rule of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. Consequently a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. The attorney filing a case should complete the form as follows:

**I. (a) Plaintiffs – Defendants.** Enter names (last, First, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.

(b) County of Residence. For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the "defendant" is the location of the tract of land involved.)

(c) Attorneys. Enter firm name, address, telephone number, and attorney or record. If there are several attorneys, list them on an attachment, noting in this section "(see attachment)".

**II. Jurisdiction.** The basis of jurisdiction is set forth under Rule 8(a), F.R.C.P., which requires that jurisdictions be shown in pleadings. Place an "X" in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.

United States plaintiff. (1) Jurisdiction is based on 28 U.S.C. 1345 and 1348. Suits by agencies and officers of the United States are included here.

United States defendant. (2) When the plaintiff is suing the United States, its officers or agencies, place an X in this box.

Federal question. (3) This refers to suits under 28 U.S.C. 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked.

Diversity of citizenship. (4) This refers to suits under 28 U.S.C. 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below; federal question actions take precedence over diversity cases.)

**III. Residence (citizenship) of Principal Parties.** This section of the 15-44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.

**IV. Cause of Action.** Report the civil statute directly related to the cause of action and give a brief description of the cause.

**V. Nature of Suit.** Place an "X" in the appropriate box. If the nature of suit cannot be determined, be sure the cause of action, in Section IV above, is sufficient to enable the deputy clerk or the statistical clerks in the Administrative Office to determine the nature of suit. If the cause fits more than one suit, select the most definitive.

**VI. Origin** Place an "X" in one of the seven boxes.

Original Proceedings. (1) Cases which originate in the United States district courts.

Removed from State Court. (2) Proceedings initiated in state courts may be removed to the district courts under Title 28 U.S.C., Section 1441. When the petition for removal is granted, check this box.

Remanded from Appellate Court. (3) Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.

Reinstated or Reopened. (4) Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.

Transferred from Another District. (5) For cases transferred under Title 28 U.S.C. Section 1404(a). Do not use this for within district transfers or Multidistrict litigation transfers.

Multidistrict Litigation. (6) Check this box when a Multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407. When this box is checked, do not check (5) above.

Appeal to District Judge from Magistrate Judgment. (7) Check this box for an appeal from a magistrate's decision.

**VII. Requested in Complaint.** Class Action. Place an "X" in this box if you are filing a class action under Rule 23, F.R.Cv.P.

Demand. In this space, enter the dollar amount (in thousands of dollars) being demanded or indicate other demand such as a preliminary injunction.

Jury Demand. Check the appropriate box to indicate whether or not a jury trial is being demanded.

**VIII. Related Cases.** This section of the 15-44 is used to reference relating pending cases if any. If there are related pending cases, insert the docket numbers and the corresponding judge names for such cases.

Date and Attorney Signature. Date and sign the civil cover sheet.

AO FORM 85 RECEIPT (REV. 9/04)

United States District Court for the District of Delaware

Civil Action No. 07-103

CLERK U.S. DISTRICT COURT  
DISTRICT OF DELAWARE  
FILED  
2007 FEB 21 PM 4:11

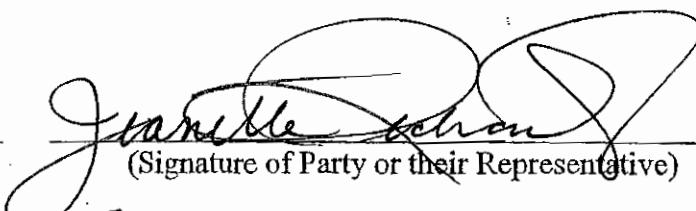
**ACKNOWLEDGMENT**  
**OF RECEIPT FOR AO FORM 85**

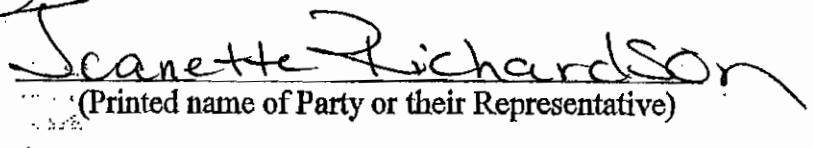
**NOTICE OF AVAILABILITY OF A**  
**UNITED STATES MAGISTRATE JUDGE**  
**TO EXERCISE JURISDICTION**

I HEREBY ACKNOWLEDGE RECEIPT OF 3 COPIES OF AO FORM 85.

FEB 21 2007

(Date forms issued)

  
(Signature of Party or their Representative)

  
(Printed name of Party or their Representative)

Note: Completed receipt will be filed in the Civil Action